

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Martinsburg Post Office
Martinsburg, New York

Docket No. A2011-77

ORDER AFFIRMING DETERMINATION

(Issued January 9, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On September 16, 2011, the Citizens of Martinsburg (Petitioner) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Martinsburg, New York post office (Martinsburg post office).² The Final Determination to close the Martinsburg post office is affirmed.

II. PROCEDURAL HISTORY

On September 21, 2011, the Commission established Docket No. A2011-77 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.³

On October 3, 2011, the Postal Service filed the Administrative Record with the Commission.⁴ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁵

² Petition for Review received from the Concerned Citizens of Martinsburg regarding the Martinsburg, New York post office 13404, September 16, 2011 (Petition).

³ Order No. 866, Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 21, 2011.

⁴ The Administrative Record is attached to the United States Postal Service Notice of Filing, October 3, 2011; see *also* United States Postal Service Notice of Filing, October 3, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Martinsburg, New York Post Office and Extend Service by Rural Route Service (Final Determination).

⁵ United States Postal Service Comments Regarding Appeal, November 4, 2011 (Postal Service Comments).

Petitioner did not file a Participant Statement, but on October 20, 2011, Petitioner filed a letter addressed to the Postal Service's Post Office Operations Manager responsible for the Martinsburg post office.⁶ On November 28, 2011, the Public Representative filed a reply brief.⁷

III. BACKGROUND

The Martinsburg post office provides retail postal services and service to 86 post office box customers. Final Determination at 2. No delivery customers are served through this office. The Martinsburg post office, an EAS-11 level facility, has retail access hours of 8:00 a.m. to 1:00 p.m. and 2:00 p.m. to 4:45 p.m., Monday through Friday, and 8:30 a.m. to 11:15 a.m. on Saturday. Lobby access hours are from 8:00 a.m. to 5:00 p.m., Monday through Friday, and 8:30 a.m. to 11:30 p.m. on Saturday. *Id.*

The postmaster position became vacant on March 4, 2006 when the Martinsburg postmaster was promoted. A non-career officer-in-charge (OIC) was installed to operate the office. Retail transactions averaged 13 transactions daily (10 minutes of retail workload). Office receipts for the last 3 years were \$23,737 in FY 2008; \$23,304 in FY 2009; and \$21,611 in FY 2010. *Id.* There were no permit or postage meter customers. *Id.* By closing this office, the postal service anticipates savings of \$19,162 annually. *Id.* at 8.

⁶ Petitioner Letter received from the Concerned Citizens of Martinsburg, New York Post Office, October 20, 2011 (Petitioner Letter).

⁷ Reply Brief of the Public Representative, November 28, 2011 (PR Reply Brief).

After the closure, retail services will be provided by the Lowville post office located approximately 3 miles away.⁸ *Id.* at 2. Delivery service will be provided by rural carrier through the Lowville post office. *Id.* The Lowville post office is an EAS-18 level office, with retail hours of 8:15 a.m. to 4:30 p.m., Monday through Friday, and 9:30 a.m. to 12:30 p.m. on Saturday. One-hundred-sixty post office boxes are available. *Id.* The Postal Service will continue to use the Martinsburg name and ZIP Code. *Id.* at 7-8, Concern No. 4.

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioner opposes the closure of the Martinsburg post office. It presents alternatives to the closure and contends that the post office's closure is not the best economic option available to the Postal Service. Petitioner Letter at 1. Petitioner requests the consideration of four options: (1) suspend all retail and staffing at Martinsburg; (2) continue service to 86 post office box customers, but charge a rental fee; (3) service the current post office boxes at Martinsburg by a rural carrier; or (4) if a rural carrier is unsatisfactory under option 3, use a Lowville employee to deliver mail to the post office boxes in Martinsburg and pick up mail at one location. *Id.*

Petitioner also argues that the Martinsburg community will lose its sense of community if the post office is closed after decades of service, and the inconvenience senior citizens will face with the added travel to the Lowville post office.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Martinsburg post office. Postal Service Comments at 10. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services; (2) the impact on the Martinsburg community; and (3) the economic savings expected to result from discontinuing the Martinsburg post office. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious

⁸ MapQuest estimates the driving distance between the Martinsburg and Lowville post offices to be approximately 4.1 miles (7 minutes driving time).

consideration and concludes the determination to discontinue the Martinsburg post office should be affirmed. *Id.* at 1-2.

The Postal Service explains that its decision to close the Martinsburg post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and declining office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- minimal impact on the community; and
- expected financial savings.

Id. at 4. The Postal Service contends that it will continue to provide regular and effective postal services to the Martinsburg community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and addresses the concerns raised by Petitioner regarding the effect on postal services, the effect on the Martinsburg community, the effect on employees, and economic savings. *Id.* at 4-9.

Public Representative. The Public Representative concluded that the Postal Service followed all applicable procedures outlined in 39 U.S.C. § 404(d). PR Reply Brief at 5. He also states that the Postal Service has met the statutory burden imposed upon it for post office closures. *Id.* at 6. However, he questions whether the estimated savings of the discontinuance of the Martinsburg post office are exaggerated. He suggests that the savings are overstated because the Martinsburg post office has been run by an OIC since March 2006. He speculates that the estimated labor savings may be less than the replacement cost of service. *Id.*

The Public Representative concludes that the Postal Service has complied with the statutory requirements, but suggests that there may be other solutions that better serve the interests of all concerned. *Id.* at 7.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to person served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The record indicates the Postal Service took the following steps in reaching its Final Determination. On May 3, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Martinsburg post office. Final Determination at 2. A total of 89 questionnaires were distributed and 36 were returned. On May 12, 2011, the Postal Service held a community meeting at the Martinsburg post office to address customers' concerns. 21 customers attended. *Id.*

The Postal Service posted the proposal to close the Martinsburg post office with an invitation for comments at the Martinsburg and Lowville post offices for approximately 60 days from May 28, 2011 through July 29, 2011. *Id.* The Final Determination was posted at the same two post offices for approximately 30 days from August 25, 2011 to September 28, 2011. Administrative Record, Item 49 at 1-2.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and economic savings to the Postal Service. 39 U.S. C. § 404(d)(2)(A).

Effect on the community. Martinsburg, New York is an unincorporated community located in Lewis County. Final Determination at 7. Police protection is provided by the Lewis County Sheriff's Department. Fire protection is provided by the Martinsburg Fire Department. The community is comprised of retirees, self-employed individuals, and those who commute to work at nearby communities and work in local businesses. *Id.* Residents may travel to nearby communities for other supplies and services. See *generally* Administrative record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Martinsburg community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Martinsburg post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 7.

Petitioner raises the issue of the effect of the closing on the Martinsburg community. Petitioner Letter at 1. The Postal Service contends that it considered this issue and explains that the community identity will be preserved by continuing the use of the Martinsburg name and ZIP Code. Postal Service Comments at 7.

The Postal Service has adequately taken the effect of the post office closing on the community into account.

Effect on employees. The Postal Service states that the Martinsburg postmaster was promoted on March 4, 2006 and that an OIC has operated the Martinsburg post office since then. *Id.* at 8; Final Determination at 1. It asserts that after the implementation of the Final Determination, the OIC may be separated from the Postal Service and the record indicates that no other Postal Service employee will be adversely affected. *Id.*

The Postal Service has considered the possible effects of the post office closing on the OIC when it stated that the OIC may be separated, thus satisfying its obligation to consider the effect of the closing on employees at the Martinsburg post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and Regular Service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Martinsburg customers. Postal Service Comments at 4. The Postal Service asserts that customers of the closed Martinsburg post office may obtain retail services at the Lowville post office located 3 miles away. Final Determination at 1. Delivery service will be provided by rural carrier through the Lowville post office. *Id.* The 86 Martinsburg post office box customers may obtain Post Office Box service at the Lowville post office, which has 160 boxes available. *Id.*

For customers choosing not to travel to the Lowville post office, the Postal Service explains that retail services will be available from the carrier. *Id.* at 9. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox.

Petitioner argues that the added distance to the Lowville post office is an inconvenience to the community and senior citizens who may have difficulty traveling to the post office in Lowville for services. Petitioner Letter at 1. It also asserts that many senior citizens do not have access to the internet to conduct postal transactions. The Postal Service responds that it considered Petitioner's concern about the travel for Martinsburg residents by stating that services provided at the post office, such as the sale of stamps, envelopes, postal cards, and money orders, will also be provided from the carrier to roadside mailboxes located close to customers' residence. Postal Service Comments at 5. Therefore, because a rural carrier provides the same services as a post office, it alleviates the need to travel to the Lowville post office. *Id.* It also states that in hardship cases, delivery can be made to the home of a customer. *Id.*

The Public Representative asserts that the Postal Service has arranged for customers of the Martinsburg post office to continue to have access to effective and regular postal services. PR Reply Brief at 5-6. However, he contends that the Postal Service's decision should be renegotiated in light of the suggestions offered by Petitioner. *Id.* at 7. Nonetheless, he concludes that the Commission should affirm the decision of the Postal Service to close the Martinsburg post office. *Id.*

The Postal Service addressed various options suggested by the Petitioner in lieu of closing the Martinsburg post office. Specifically, the Postal Service indicated that "carrier service is more cost-effective than maintaining the Martinsburg postal facility and postmaster position." Final Determination at 9.

The Postal Service has considered and responded to the issues raised by customers concerning effective and regular service.

Economic savings. The Postal Service estimates total annual savings of \$19,162. Final Determination at 8. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual cost lease cost (\$0), minus the cost of replacement service (\$25,117). *Id.*

Petitioner observes that the projected net savings are only \$19,162 compared to estimated annual cost of replacement service of \$25,117. Petition at 1. Petitioner

contends that the savings estimate does not include the cost of decommissioning the Martinsburg post office trailer housing. Petitioner Letter at 1. The Postal Service responds by stating that the costs associated with closing the facility are not entirely known until the Final Determination is implemented. Postal Service Comments at 9. It further argues that the disposal of the Martinsburg post office may generate a small amount of revenue, if the property is sold.

The Public Representative concludes that the “estimated savings are very probably exaggerated” because they reflect the postmaster’s compensation, rather than the presumably lower compensation paid to an OIC. PR Comments at 6. He suggests that alternatives proposed by Petitioner may result in greater savings for the Postal Service. He urges the Postal Service to meet with citizens to discuss these options. *Id.* at 7.

The Commission has previously stated that the Postal Service should not compute savings based on compensation costs that are not eliminated by the discontinuance of a post office. The Martinsburg postmaster was promoted on March 4, 2006. Final Determination at 1. The post office has since been run by an OIC who, upon discontinuance of the post office, may be separated from the Postal Service. *Id.* at 8. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67 United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; and Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Martinsburg post office has been staffed by an OIC for almost 6 years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(ii) and (iv).

VI. CONCLUSION

The Postal Service has adequately considered all requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Martinsburg post office is affirmed.

It is ordered:

The Postal Service's determination to close the Martinsburg, New York post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Martinsburg post office has been operated by an officer-in-charge (OIC) since the former postmaster was promoted in March 2006. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal; yet on the other hand, it argues that the savings should be calculated using a full-time position.

An honest presentation of the actual savings associated with closing the Martinsburg post office is likely to demonstrate that the savings are less than the replacement costs for rural carrier service. There are inherent and blatant contradictions in the record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the record. Therefore, the decision to close should be remanded to the Postal Service to correct the record and present a more considered evaluation of potential savings.

The Administrative Record reflects that several postal customers contacted the Postal Service to put forward alternative service options. However, the record does not identify any consideration or evaluation of these alternative service options. Therefore, the Postal Service did not adequately consider the impact of the closure on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process but had not yet received a discontinuance notice by December 12, 2011 have the respite of a 5-month moratorium.

The citizens of Martinsburg, New York and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider all requirements of 39 U.S.C. § 404(d).

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that since March 2006, a non-career postmaster relief (PMR) has been in charge of this facility, not an EAS-11 postmaster. The PMR's salary and benefits should be reflected in its cost savings analysis.

As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Postal Service's decision to discontinue operations at the Martinsburg post office is unsupported by evidence on the record and, thus, should be remanded.

Nanci E. Langley